

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

10-CR-6254L

RICHARD LYNN ALRED,

Defendant.

**GOVERNMENT'S MOTION FOR A
PROTECTIVE ORDER AND ORDER TO SEAL**

THE UNITED STATES OF AMERICA, by and through its attorneys, William J. Hochul, Jr., United States Attorney for the Western District of New York, and Tiffany H. Lee, Assistant United States Attorney, hereby moves the Court for a protective order pursuant to Title 18, United States Code, Section 3509(d)(1) and for an Order permitting the filing of victim impact statements and restitution requests under seal, for the reasons set forth below.

1. On January 13, 2010, Richard Alred was charged with a violation of Title 18, United States Code, Section 2252A(a)(5)(B), possession of child pornography. On February 11, 2011, Richard Alred pled guilty to a one-count Superseding Information charging him with a violation of Title 18, United States Code, Section 2422(b), coercion and enticement of a minor. Sentencing is scheduled for June 16, 2011. Richard Alred knowingly possessed images of children engaged in sexually explicit conduct. Some of

the images of child pornography contained children whose identities are known.

2. Child pornography images permanently memorialize the sexual exploitation of the victims depicted. These images are most often circulated on the Internet, allowing untold numbers of people to view this victimization again and again. Unfortunately, most of these children have never been identified. However, some children have been identified through the efforts of law enforcement. Regardless of whether they have been identified, every child depicted in images of child pornography that have been distributed, received, or possessed in violation of Federal law, as charged in Federal district court, has been "directly and proximately harmed as a result of a commission of a Federal offense." Title 18, United States Code, Section 3771(e). Similarly, every child depicted in such images, regardless of whether the images are the basis of federal charges, has "suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime." Title 42, United States Code, Section 10607(e)(2).

3. The Government has complied with the Justice For All Act, Title 18, United States Code, Section 3771(b), by notifying the victims about the charges and plea. Some of the child victims, and/or their parents, have submitted victim impact statements

outlining how the distribution and downloading of their image has negatively affected them. Some of the victims may also submit requests for restitution. Title 18, United States Code, Section 3509(d) authorizes the filing under seal of the name or any other information concerning a child. Furthermore, Title 18, United States Code, Section 3509(d)(1) requires the Government, the defendant and defense counsel, among other things to "keep all documents that disclose the name or any other information concerning the child in a secure place and shall disclose the documents only to persons who by reason of their participation in the proceeding have a reason to know the information." Additionally, Title 18, United States Code, Section 3771(a)(8) makes clear that a victim has "the right to be treated with fairness and with respect for the victim's dignity and privacy." Since the victim impact statements and requests for restitution may contain the names of the child victims as well as other identifying and personal information, the government requests the Court to seal the victim impact statements and requests for restitution, and issue a protective order limiting disclosure.

4. Pursuant to Title 18, United States Code, Section 3509(d), it is further requested that the material and copies referenced in Paragraph 3, shall not be disclosed to the media or any other person or entity except to those persons who, by reason

of their participation in the proceeding, are entitled. Nothing shall prohibit a party from using the material in connection with the proceedings in this litigation, including appeal or any collateral enforcement proceedings.

5. It is further requested that copies shall not be provided to third parties except those employed or engaged for the purpose of this litigation, who shall also be bound by order of the Court.

DATED: Rochester, New York, March 1, 2011.

Respectfully submitted,

WILLIAM J. HOCHUL, Jr.
United States Attorney

By: s/ TIFFANY H. LEE
Assistant United States Attorney
United States Attorney's Office
Western District of New York
620 Federal Courthouse
100 State Street
Rochester, New York 14614
(585) 263-6760, ext. 2251
tiffany.lee@usdoj.gov

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

10-CR-6254L

RICHARD LYNN ALRED,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2011, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

Anne Burger, Esq.

s/ KIM M. PETTIT